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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE COLLEGE ATHLETE NIL
LITIGATION

Case No. 4:20-cv-03919-CW

PLAINTIFFS' OMNIBUS RESPONSE
TO OBJECTIONS FILED AT ECF NOS.
1044, 1049-1054, 1056

Hrg. Date: November 6, 2025
 Time: 1:30 p.m.
 Judge: Hon. Claudia Wilken
 Courtroom: 3, Third Floor (and Zoom)

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I. INTRODUCTION

On June 6, 2025, this Court granted final approval of the *House* Settlement Agreement in no small part because the injunctive relief portion of the settlement “would result in ground-breaking changes in NCAA rules that govern student-athlete compensation, which would enable NCAA schools to share their athletic revenues with Division I college student-athletes for the first time in the history of the NCAA and would eliminate NCAA limits on scholarships.” *See Op. and Order Granting Final Approval* (“Final Approval Order”), ECF No. 978 at 2. The Court’s prediction proved to be prophetic: the revenue-sharing system created by the Injunctive Relief Settlement Agreement has been a spectacular benefit to class members.

Now before the Court are a handful of objections to that injunction concerning issues the Court has already considered and rejected. No objector identifies any new development or revelation that both actually relates to the Injunctive Relief Settlement Agreement and warrants the Court altering its prior determination that this historic settlement is fair, reasonable, and adequate. Moreover, it appears that all but one of the objectors lack standing to object because they are not incoming student-athletes who are joining a Division I athletic team for the first time this year.¹ The purpose of the ongoing notice and objection process for new Injunctive Relief Settlement Class Members (*i.e.*, incoming athletes) is to ensure they are afforded an opportunity to object to the system they are entering. *See* Final Approval Order at 16. Here, however, several of the objectors were on a roster last year and already had an opportunity to object. *See* ECF Nos. 1044, 1051, 1052, 1053, 1056. Many of the objectors also lack standing because they are not currently on a Division I athletic team and thus not even members of the Injunctive Relief Settlement Class. *See*, ECF Nos. 1049,² 1050, 1052, 1053, 1056. In any event, there is no basis for the Court to reverse course on objections that were already (and correctly) overruled.

¹ The other – Objector Gracelyn Laudermitch – already objected to the same portions of the settlement (roster limits) that she objects to now. *See* ECF Nos. 666, 808.

² Objector Dominic Amoroso also lacks standing to object because he is not a class member. The Court previously declined to address objections filed by “parents, athletics associations, and other individuals and entities who are not class members, because non-class members do not have standing to object to the SA. *See In re TracFone Unlimited Serv. Plan Litig.*, 112 F. Supp. 3d 993, 1008 (N.D. Cal. 2015) (holding that objector had “no legal standing to object to the settlement because he has not demonstrated that he is an aggrieved class member”).” Even if Objector

1 First, each of the arguments based on Title IX is improper because this is not a Title IX
 2 case and the settlement does not and cannot address Title IX claims. Moreover, the settlement does
 3 not release claims arising out of Title IX in connection with the implementation of the Injunctive
 4 Relief Settlement. Second, the objections based on discretionary financial decision-making by
 5 schools are misplaced because the Injunctive Relief Settlement does not dictate how schools
 6 choose to allocate resources. Third, the Injunctive Relief Class is adequately represented by Class
 7 Counsel and the named Class Representatives. Pursuant to the settlement agreement, Class
 8 Counsel are and will continue to seek current college athletes to be added as Class Representatives
 9 during the ten-year term of the Injunctive Relief Settlement to the extent that it is reasonably
 10 possible, but as the Court already explained, this is not necessary to ensure adequacy of
 11 representation. Finally, as the Court already found, the notice process for incoming members of
 12 the Injunctive Relief Settlement Class satisfy the requirements of Rule 23 and due process. The
 13 Court should overrule each of the objections, again.

14 II. ARGUMENT

15 A. Objections regarding Title IX are not proper

16 Several of the objections reiterate Title IX-based arguments that the Court already
 17 addressed and rejected. First, some objectors argue that schools are choosing to allocate money
 18 under the Injunctive Relief Settlement in a manner that they believe violates Title IX. For example,
 19 one objector contends that her school is violating Title IX because it decided to provide a larger
 20 percentage of its revenue sharing to male athletes than female athletes. *See* ECF No. 1051. Another
 21 alleges that her school violated Title IX by deciding to cut certain women's sports in order to fund
 22 revenue sharing with men's sports. *See* ECF No. 1053.

23 These objections are misplaced because the settlement does not dictate how schools elect
 24 to share revenues and there is nothing in the settlement agreement that prevents or prohibits schools
 25 from distributing benefits and compensation pursuant to the Injunctive Relief Settlement in a
 26

27

Amoroso did have standing to object as a parent of a class member, his daughter is not a member
 28 of the Injunctive Relief Class.

1 manner that complies with Title IX. And, as the Parties and Court have made clear, the settlement
2 only releases liability from Title IX claims related to the damages settlement distribution itself, it
3 does not require class members to release claims arising out of Title IX in connection with the
4 implementation of the Injunctive Relief Settlement. *See* Final Approval Order at 64. Thus, to the
5 extent that these objectors or any other class members believe that their schools are violating Title
6 IX when providing benefits and compensation to student-athletes pursuant to the Injunctive Relief
7 Settlement, the Settlement does not adversely affect their rights.

8 Some objectors, including Katherine McCabe Ernst who previously filed an objection on
9 this same issue, *see* ECF No. 670, challenge the settlement’s narrow release of Title IX claims
10 “arising out of or relating to the distribution of the Gross Settlement Fund.” *See* ECF Nos. 1049,
11 1051. Distribution of the Gross Settlement Fund does not concern the Injunctive Relief Settlement
12 and, furthermore, the Court already overruled that argument at final approval. *See* Final Approval
13 Order at 63 (“the objectors have cited no authority that Title IX applies to damages awards
14 distributions or that damages distributions made by a claims administrator are subject to Title IX.
15 Accordingly, the Court cannot conclude that Title IX violations will occur when the Gross
16 Settlement Fund is distributed by the claims administrator pursuant to the damages allocations that
17 Plaintiffs have proposed.”).

18 Some of the objections also suggest various amendments to the settlement including
19 changes that would require schools to publicly disclose all revenue-sharing payments broken down
20 by sport and gender and expressly declare that revenue-sharing payments are subject to Title IX.
21 *See* ECF Nos. 1049, 1051. But, as the Court has recognized, it cannot modify one part of the
22 settlement and approve the rest. ECF No. 723 at 2 (“The Court cannot order changes to the
23 agreement.”); *see also Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1998) (explaining
24 that courts do not “have the ability to delete, modify or substitute certain provisions”). Rather, “[i]t
25 is the settlement taken as a whole . . . that must be examined for overall fairness.” *Id.* And, more
26 importantly, the question of whether Title IX applies to the types of payments contemplated under
27 the Injunctive Relief Settlement is an unresolved issue of legal statutory interpretation and this is
28

1 not the proper forum to resolve it. As the Parties have now explained several times, Plaintiffs did
2 not assert Title IX claims in this litigation and the settlement does not and cannot address them.

3
4 **B. Complaints regarding schools' independent discretionary decisions are not proper
objections to the settlement**

5 Many of the objectors argue that the settlement is not fair, reasonable and adequate because
6 some schools decided to discontinue certain sports, cut certain athletes from their teams, or
7 otherwise reallocate budgetary resources following the implementation of the Injunctive Relief
8 Settlement. *See* ECF Nos. 1044, 1049, 1050, 1051, 1052, 1053, 1055. While it is certainly
9 unfortunate that some athletes have lost athletic opportunities because their school decided to
10 eliminate sports, reduce rosters, or shift financial resources, the Injunctive Relief Settlement did
11 not direct any of those things. Indeed, the objectors themselves acknowledge that financial and
12 other considerations factored into the schools' decisions. *See, e.g.*, ECF Nos. 1049, 1052, 1053
13 (acknowledging that Cal Poly president cited "state budget" and "overall financial health of the
14 athletic department" as reasons for eliminating men's and women's swim and dive program); 1051
15 (alleging that some schools decided to discontinue *Alston* awards in order to allocate more money
16 to revenue sharing); 1044 (acknowledging that school cut some athletes despite the fact that they
17 were Designated Student Athletes not subject to roster limits due to Title IX compliance concerns).

18 As explained *supra*, the Injunctive Relief Settlement does not dictate how schools choose
19 to allocate resources or fund revenue sharing. Schools have always had the discretion to eliminate
20 sports and pursue their individual financial priorities; the Injunctive Relief Settlement does not
21 change that. If a school chooses to cut a sport or reduce roster sizes for budgetary reasons or to
22 reallocate financial resources, it has the discretionary authority to do so. And, as the Court
23 previously held in overruling a similar objection at final approval, the fact that the settlement does
24 not guarantee roster spots does not render the settlement unfair or unreasonable. As the Court
25 explained, "under current NCAA rules, roster spots are not guaranteed for any student-athlete and
26 schools have discretion to revoke roster spots for any reason. The parties' modifications of the SA
27 maintain the schools' discretion to decide which student-athletes to have on their rosters. This does
28 not render the SA unfair or unreasonable." Final Approval Order at 51.

1 **C. Injunctive Relief Settlement Class Members are adequately represented by Class**
2 **Counsel and the named Plaintiffs**

3 Some objectors contend that the named Plaintiffs cannot adequately represent members of
4 the Injunctive Relief Settlement Class because they are no longer in college. *See* ECF Nos. 1044,
5 1051. This is wrong. In fact, the Court previously rejected this same argument at final approval
6 finding that “the named Plaintiffs are adequate representatives for *all* class members, because they
7 share with all class members a common interest in securing a more competitive market for the
8 labor of Division I student-athletes and in achieving greater compensation for Division I student-
9 athletes via this litigation. The existence of this overarching common interest is sufficient to
10 conclude that future Division I student-athletes who are a part of the Injunctive Relief Settlement
11 Class had adequate representation from the named Plaintiffs.” Final Approval Order at 55. The
12 Court’s conclusion was correct then and it is still correct about six months later. The objectors do
13 not even try to explain why, or cite any authority suggesting that, the Court was wrong previously.

14 The settlement agreement does state that the named Plaintiffs include “the named plaintiffs
15 in the Action, as well as any individuals who may be added into the Action as additional named
16 class representatives during the Term, with the intent that, to the extent reasonably possible, there
17 is during the Term at least one current student athlete that is a Plaintiff.” *See* Fourth Am.
18 Stipulation and Settlement Agreement, ECF 958-1, § A.1(II). Consistent with this provision, Class
19 Counsel are and will continue to seek individuals to be added into the Action during the ten-year
20 term of the Injunctive Relief Settlement to the extent that it is reasonably possible. But as the Court
21 already explained, this is not necessary to ensure adequacy of representation.

22 One objector, Gracelyn Laudermilch, further argues that she was not adequately
23 represented by Class Counsel because Class Counsel did not represent her in filing an objection at
24 final approval. *See* ECF No. 1044. As an initial matter, Ms. Laudermilch already filed an objection,
25 *see* ECF No. 666, and was heard at the final approval hearing on April 7, 2025. Beyond that, her
26 complaint about Class Counsel appears to be based on a misunderstanding of the settlement and
27 the role of Class Counsel. Here, Class Counsel’s role is to represent the best interests of the class
28 as a whole, not any individual member or objector. While Ms. Laudermilch certainly had the right

1 to file an objection, and she had the option to either represent herself or hire an independent
 2 attorney to represent her in doing so, Class Counsel was not obligated to represent her as an
 3 objector.³ To the contrary, Class Counsel upheld its obligation to all members of the class by
 4 advocating for the approval of a settlement that significantly benefits them.

5 **D. Objections regarding adequacy of the notice process should be overruled**

6 The Laudermilch objection further argues that the notice process for incoming class
 7 members is inadequate and suggests that “parents of children 8 years old and older should be
 8 informed of the Settlement” in order for notice to be sufficient. ECF No. 1044 at 3. The Court
 9 should overrule this objection for the same reasons that it already found notice to be adequate at
 10 final approval.

11 A court must “direct notice [of a proposed class settlement] in a reasonable manner to all
 12 class members who would be bound by the proposal.” Fed. R. Civ. P. 23(e)(1). Due process
 13 requires “notice reasonably calculated, under all the circumstances, to apprise interested parties of
 14 the pendency of the action and afford them an opportunity to present their objections.” *Mullane v.*
 15 *Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). Here, it would not be feasible, as Ms.
 16 Laudermilch suggests, to identify and notify every 8-year-old child that might eventually become
 17 an Injunctive Relief Settlement Class Member. Given the impracticability of identifying future
 18 members of the Injunctive Relief Class years before they become college athletes, the settlement
 19 agreement provides that, during the term of the Injunctive Relief Settlement, NCAA members shall
 20 take reasonable steps to provide notice of the Injunctive Relief Settlement in a form approved by
 21 the Court and Class Counsel to all incoming members of the Injunctive Relief Settlement Class at
 22 or before the time they first enroll at a Division I member school or later join, for the first time, a
 23 Division I athletic team. *See* Fourth Am. Stipulation and Settlement Agreement, ECF 958-1, ¶ 14.
 24 All such class members have the right to file written objections to a continuation of the Injunctive
 25 Relief Settlement within sixty days of receiving such notice and will not release their injunctive
 26

27 ³ Class Counsel provided Ms. Laudermilch with detailed instructions to submit her objection
 28 to the Court, *see* ECF 1044 at Ex. 1, which resulted in her submitting multiple objections, *see* ECF
 Nos. 666, 808, and speaking at the April 7, 2025 fairness hearing.

and declaratory relief claims until they have received notice and an opportunity to object and the Court has resolved any objections.

In granting final approval and approving the supplemental notice plan less than three months ago as the best notice practicable, the Court found that these procedural protections satisfy the requirements of Rule 23 and due process, and it should make the same determination here.

III. CONCLUSION

For all the foregoing reasons, Plaintiffs respectfully request that the objections to the Injunctive Relief Settlement be overruled.

DATED: October 14, 2025

Respectfully submitted,

By /s/ Steve W. Berman

By /s/ Jeffrey L. Kessler

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Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the signatories above.

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